IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 8TH DECEMBER 2006 / 17TH AGRAHAYANA 1928

OP.No. 10936 of 1996(B)

PETITIONER:

VASUDEVAN .N.G., S/O.LATE N.G.GOVINDAN,
NARIANTHARA HOUSE, THIRUVARPPU P.O.,
KOTTAYAM DISTRICT.

BY ADV. SRI.C.S.MANU
SRI.SUNDEEP HARIDAS

RESPONDENTS:
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1. **THE DIRECTOR OF PUBLIC INSTRUCTIONS,**
   THIRUVANANTHAPURAM.

2. **THE DEPUTY DIRECTOR, (EDUCATION),**
   KOTTAYAM.

3. **THE DISTRICT EDUCATIONAL OFFICER,**
   KOTTAYAM.

4. **THE MANAGER, SREE VIJAYANANDA GURUKULA**
   VIDYAPEEDAM HIGH SCHOOL,
   KILIROOR, KILIROOR NORTH P.O.,
   KOTTAYAM DISTRICT.

BY GOVERNMENT PLEADER SMT.SMITHA BABU
SRI.P.G.PARAMESWARA PANICKER
SRI.P.GOPAL

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 08/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH, J.

O.P.No.10936/1996

Dated this the 8th day of December, 2006.

JUDGMENT

Petitioner is aggrieved by Ext.P13 order passed by the Deputy Director of Education. According to the petitioner, he is entitled to get salary and other benefits for the period from 1.3.1988 to 27.3.1996 since it is a case of denial of appointment under Rule 51A, Chapter XIV-A KER. In the counter affidavit at par 6 it is stated as follows:-

> " Ext.P6 was issued on 10.4.1995. But afterwards on the hearing conducted by the 2nd respondent on 24.4.1996, the Manager produced a copy of the judgment dated 10.2.1993 in Sessions Court case No.100 of 1991 by the Sessions Court, Kollam, to prove that the petitioner was the 7th accused in a criminal case and was acquitted. He was under judicial custody or on bail for the period from 12.1.1987 to 10.2.1993. Hence the request for appointment was not considered by 3rd respondent. The petitioner did not raise any claim for appointment on 14.1.1992 when Sri.Vijayadas was appointed as Clerk in the school, though he was aware of it since he is residing in the suburb of the school. But he kept silent upto 25.2.1993 as he was under custody or on bail during that period.

2. It is fairly clear that the petitioner did not make any claim for appointment under the relevant time, since even if appointment had been offered, that would have been cancelled because of his involvement in the criminal case . At the relevant time petitioner, it appears, was not quite sure of the acquittal. The acquittal was only in 1993. Thereafter in the first available vacancy petitioner was

appointed also as directed by the Deputy Director in Ext.P6. In the above circumstances, nobody can be blamed for the denial of appointment and hence the petitioner is not entitled to any relief.

The original petition is dismissed.

(KURIAN JOSEPH)
JUDGE

pmn/

KURIAN JOSEPH,J.

OP.NO.10936/1996

JUDGMENT

8th December,2006.